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13 IN THE UNITED STATES DISTRICT COURT
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15 FOR THE NORTHERN DISTRICT OF CALIFORNIA
16
17 SAN FRANCISCO DIVISION

18 UNITED STATES OF AMERICA,

19 Case No. CR 16-00038 SI

20 Plaintiff,

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DEFENDANT'S SENTENCING
MEMORANDUM

v.
SHAUN VINCENT KELLEY,

Date: August 24, 2016
Time: 11:00 am
Court: The Honorable Susan Illston

Defendant.

1 Mr. Shaun Vincent Kelley comes before this Court after pleading guilty to count one of the
2 Indictment, charging him with Engaging in Illicit Sexual Conduct in violation of 18 U.S.C. § 2423(c).
3 The task before this Court is to impose the lowest possible sentence that would meet the objectives of
4 federal sentencing as set forth in 18 U.S.C. § 3553(a). Pursuant to the plea agreement, the parties jointly
5 recommend a sentence of 120 months, or 10 years, followed by a period of five years of supervised
6 release. This represents a small downward variance from the otherwise applicable guideline range. In
7 consideration of the factors and pursuant to the goals of Section 3553(a), this sentence is the appropriate
8 disposition of this case.

9 First, Mr. Kelley has demonstrated extraordinary acceptance of responsibility in this matter. He
10 pled guilty to the single count in the Indictment in his second appearance before this Court, just one
11 month after being indicted for this offense. In doing so, he forthrightly admitted responsibility and
12 saved the government an immense amount of time and resources in prosecuting this case.

13 Second, Mr. Kelley has no criminal history points, and, prior to this offense, he had had no
14 encounters whatsoever with law enforcement in nearly 20 years. He has never before served any time in
15 jail, let alone in prison. Any amount of time in federal prison, therefore, will have an enormous impact
16 on his life and will go a long way in deterring him from doing anything like this again. In light of this, a
17 ten-year sentence is certainly adequate punishment and is sufficient to reflect to seriousness of this
18 offense.

19 Third, Mr. Kelley has suffered many things in his life, all which contributed to where he is today.
20 He suffered physical abuse at the hands of an alcoholic father. PSR ¶ 90. He himself battled severe
21 alcoholism, for which he successfully completed treatment in 2001. *Id.* ¶¶ 107-08. He regularly
22 attended AA meetings and remained completely sober until the months immediately before his arrest.
23 *Id.* Unfortunately, while he was living in Thailand, Mr. Kelley's substance abuse history came back to
24 haunt him and he regularly sniffed paint thinner for approximately six months. *Id.* ¶ 109. This relapse
25 in substance abuse undoubtedly affected his decision-making and sense of personal judgment.

26 Finally, and most significantly, Mr. Kelley suffered a serious brain trauma in 2009 after he fell
27 down a flight of steps. *See* PSR ¶ 95. Following the accident, Mr. Kelley was in a coma for
28 approximately one month with serious damage to his frontal and bilateral temporal lobes. *Id.* ¶¶ 95, 100.

1 Even after his discharge, he continued to experience serious physical and cognitive limitations. His
2 physical and mental condition have improved remarkably since that accident. Nonetheless, and
3 according to those closest to him, he has never been the same since that accident. Mr. Gerald Kelley,
4 Mr. Kelley's brother, describes how, from his point of view, Mr. Kelley's personality changed
5 completely after this trauma. He went from being a "gentle, happy, and independent soul," to a person
6 with a dark, paranoid personality. *See id.* Moreover, cognitive assessments of Mr. Kelley in recent
7 years have noted that he continues to suffer from multiple cognitive and emotional disorders that are
8 consistent with "severe traumatic brain injury." *Id.* ¶ 103. There is nothing in his history to even
9 suggest that, prior to the accident, Mr. Kelley was the least bit predisposed to the kind of conduct that
10 brought him before this Court. As the PSR notes, Mr. Kelley's severe brain injury, and the lasting
11 effects from it, undoubtedly contributed to the poor decisions he made and judgment he exercised while
12 in Thailand.

13 Despite all of this, Mr. Kelley maintains a close and supportive relationship with his siblings,
14 particularly his brother Gerald Kelley. Undersigned counsel can attest to the fact that Mr. Kelley's
15 family has been involved and supportive since the day he was brought into Court on these charges.
16 Counsel is confident that Mr. Kelley's family, and particularly his brother, will remain involved upon
17 his release, and will make every effort to make sure Mr. Kelley gets the counseling and treatment that he
18 needs during his period of supervision and beyond.

19 For all of these reasons, Mr. Kelley's requests that the Court accept the plea agreement and
20 impose a sentence of 120 months of imprisonment, followed by a five-year term of supervised release.

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22 Dated: August 17, 2016

Respectfully submitted,

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24 _____/s/ _____
25 SHILPI AGARWAL
26 Assistant Federal Public Defender
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